

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 143
3 entitled “An act relating to automobile insurance requirements and
4 transportation network companies” respectfully reports that it has considered
5 the same and recommends that the Senate propose to the House that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

8 Sec. 1. 23 V.S.A. chapter 10 is added to read:

9 CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

10 § 750. DEFINITIONS; INSURANCE REQUIREMENTS

11 (a) As used in this chapter:

12 (1) “Digital network” or “network” means any online-enabled
13 application, software, website, or system offered or used by a transportation
14 network company that enables the prearrangement of rides with transportation
15 network drivers.

16 (2) “Personal vehicle” means a vehicle that is:

17 (A) used by a driver to provide a prearranged ride;

18 (B) owned, leased, or otherwise authorized for use by the driver; and

19 (C) not a taxicab, limousine, or other for-hire vehicle.

20 (3) “Prearranged ride” or “ride” means the provision of transportation

21 by a driver to a transportation network rider, beginning when a driver accepts

1 the rider’s request for a ride through a digital network controlled by a
2 company; continuing while the driver transports the rider; and ending when the
3 last requesting rider departs from the vehicle. The term does not include:

4 (A) shared expense carpool or vanpool arrangements;

5 (B) use of a taxicab, limousine, or other for-hire vehicle; or

6 (C) a regional transportation company.

7 (4) “Transportation network company” or “company” means a person
8 that uses a digital network to connect riders to drivers who provide prearranged
9 rides. A company shall not be deemed to control, direct, or manage the
10 personal vehicles or drivers that connect to its digital network, except where
11 agreed to by written contract.

12 (5) “Transportation network company driver” or “driver” means an
13 individual who:

14 (A) receives connections to potential riders and related services from
15 a transportation network company in exchange for payment of a fee to the
16 company; and

17 (B) uses a personal vehicle to offer or provide a prearranged ride to
18 riders upon connection through a digital network controlled by a transportation
19 network company in exchange for compensation or payment of a fee.

20 (6) “Transportation network company rider” or “rider” means an
21 individual who uses a company’s digital network to connect with a driver who

1 provides rides in his or her personal vehicle between points chosen by the
2 rider.

3 (b) Company’s financial responsibility.

4 (1) Beginning on or before July 1, 2017, a driver, or company on the
5 driver’s behalf, shall maintain primary automobile insurance that recognizes
6 that the driver is a company driver or otherwise uses a vehicle to transport
7 passengers for compensation and covers the driver while the driver is logged
8 on to the company’s digital network or while the driver is engaged in a
9 prearranged ride.

10 (2)(A) The following automobile insurance requirements shall apply
11 while a participating driver is logged on to the transportation network
12 company’s digital network and is available to receive transportation requests
13 but is not engaged in a prearranged ride:

14 (i) primary automobile liability insurance in the amount of at least
15 \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and
16 bodily injury per incident, and \$25,000.00 for property damage; and

17 (ii) any other State-mandated coverage under 23 V.S.A. § 941.

18 (B) The coverage requirements of this subdivision (2) may be
19 satisfied by any of the following:

20 (i) automobile insurance maintained by the driver;

21 (ii) automobile insurance maintained by the company; or

1 (iii) any combination of subdivisions (i) and (ii) of this
2 subdivision (2)(B).

3 (3)(A) The following automobile insurance requirements shall apply
4 while a driver is engaged in a prearranged ride:

5 (i) primary automobile liability insurance that provides at least
6 \$1,000,000.00 for death, bodily injury, and property damage; and

7 (ii) any other State-mandated coverage under 23 V.S.A. § 941.

8 (B) The coverage requirements of this subdivision may be satisfied
9 by any of the following:

10 (i) automobile insurance maintained by the driver;

11 (ii) automobile insurance maintained by the company; or

12 (iii) any combination of subdivisions (i) and (ii) of this
13 subdivision (3)(B).

14 (4) If insurance maintained by a driver under subdivision (2) or (3) of
15 this subsection has lapsed or does not provide the required coverage, insurance
16 maintained by a company shall provide such coverage beginning with the first
17 dollar of a claim and shall have the duty to defend such claim.

18 (5) Coverage under an automobile insurance policy maintained by the
19 company shall not be dependent on a personal automobile insurer first denying
20 a claim nor shall a personal automobile insurance policy be required to first
21 deny a claim.

1 (6) Insurance required by this subsection may be placed with an insurer
2 licensed under chapter 101 (insurance companies generally) or 138 (surplus
3 lines insurance) of this title.

4 (7) Insurance satisfying the requirements of this subsection shall be
5 deemed to satisfy the financial responsibility requirement for a motor vehicle
6 under 23 V.S.A. § 800.

7 (8) A driver shall carry proof of coverage satisfying this section at all
8 times during use of a vehicle in connection with a company’s digital network.
9 In the event of an accident, a driver shall provide this insurance coverage
10 information to the directly interested parties, automobile insurers, and law
11 enforcement, upon request. Upon such request, a driver shall also disclose
12 whether he or she was logged on to the network or was on a prearranged ride at
13 the time of an accident.

14 (c) Disclosures. A transportation network company shall disclose in
15 writing to its drivers the following before they are allowed to accept a request
16 for a prearranged ride on the company’s digital network:

17 (1) the insurance coverage, including the types of coverage and the
18 limits for each coverage, that the company provides while the driver uses a
19 personal vehicle in connection with the company’s network; and

20 (2) that the driver’s own automobile insurance policy, depending on its
21 terms, might not provide any coverage while the driver is logged on to the

1 company's network and available to receive transportation requests or
2 engaged in a prearranged ride.

3 (d)(1) Automobile insurers. Notwithstanding any other provision of law to
4 the contrary, insurers that write automobile insurance in Vermont may exclude
5 any and all coverage afforded under a policy issued to an owner or operator of
6 a personal vehicle for any loss or injury that occurs while a driver is logged on
7 to a transportation network company's digital network or while a driver
8 provides a prearranged ride. This right to exclude all coverage may apply to
9 any coverage in an automobile insurance policy including:

10 (A) liability coverage for bodily injury and property damage;

11 (B) personal injury protection coverage;

12 (C) uninsured and underinsured motorist coverage;

13 (D) medical payments coverage;

14 (E) comprehensive physical damage coverage; and

15 (F) collision physical damage coverage.

16 (2) Nothing in this subsection implies or requires that a personal
17 automobile insurance policy provide coverage while the driver is logged on to
18 a company's digital network, while the driver is engaged in a prearranged ride,
19 or while the driver otherwise uses a vehicle to transport passengers for
20 compensation.

1 (3) Nothing in this section shall be construed to require an insurer to use
2 any particular policy language or reference to this section in order to exclude
3 any and all coverage for any loss or injury that occurs while a driver is logged
4 on to a company’s digital network or while a driver provides a prearranged
5 ride.

6 (4) Nothing in this subsection is deemed to preclude an insurer from
7 providing primary or excess coverage for the driver’s vehicle, if it chooses to
8 do so by contract or endorsement.

9 (5) Insurers that exclude the coverage described under subsection (b) of
10 this section shall have no duty to defend or indemnify any claim expressly
11 excluded thereunder.

12 (6) Nothing in this section is deemed to invalidate or limit an exclusion
13 contained in a policy, including any policy in use or approved for use in
14 Vermont prior to the enactment of this section, that excludes coverage for
15 vehicles used to carry persons or property for a charge or available for hire by
16 the public.

17 (7) An insurer that defends or indemnifies a claim against a driver that is
18 excluded under the terms of its policy, shall have a right of contribution against
19 other insurers that provide automobile insurance to the same driver in
20 satisfaction of the coverage requirements of subsection (b) of this section at the
21 time of loss.

1 (8) In a claims coverage investigation, transportation network
2 companies shall immediately provide upon request by directly involved parties
3 or any insurer of the transportation network company driver, if applicable, the
4 precise times that a transportation network company driver logged on and off
5 the transportation network company’s digital network in the 12-hour period
6 immediately preceding and in the 12-hour period immediately following the
7 accident. Insurers providing coverage under subsection (b) of this section shall
8 disclose, upon request by any other insurer involved in the particular claim, the
9 applicable charges, exclusions, and limits provided under any automobile
10 insurance maintained in order to satisfy the requirements of subsection (b) of
11 this section.

12 § 751. COMPANY LICENSE

13 (a) A company shall not operate without a license issued by the
14 Commissioner of Motor Vehicles. Applications for a license shall be filed
15 with the Commissioner and shall contain such information and shall be on such
16 forms as the Commissioner may prescribe.

17 (b) Each application shall be accompanied by an application fee of
18 \$125.00, which shall not be refunded. If an application is approved by the
19 Commissioner, upon payment of an additional fee of \$125.00, the applicant
20 shall be granted a license, which shall be valid for one year after the date of
21 issuance. The renewal fee is \$125.00.

1 (c) The Commissioner shall not issue a license to a company unless he or
2 she finds that the company:

3 (1) has a zero-tolerance policy for drug and alcohol use, as described in
4 subsection 752(c) of this chapter;

5 (2) requires compliance with applicable vehicle requirements;

6 (3) adopts nondiscrimination and accessibility policies; and

7 (4) establishes record maintenance guidelines.

8 (d) A company or a driver is not a:

9 (1) common carrier;

10 (2) contract carrier; or

11 (3) motor carrier.

12 **§ 752. DRIVER REQUIREMENTS; BACKGROUND CHECKS**

13 (a) A company shall not allow an individual to act as a driver on the
14 company's network without:

15 (1) Requiring the individual to submit to the company an application
16 that includes:

17 (A) the individual's name, address, and age;

18 (B) a copy of the individual's driver's license;

19 (C) a copy of the registration for the personal vehicle that the

20 individual will use to provide prearranged rides;

1 (D) proof of financial responsibility for the personal vehicle
2 described in subdivision (C) of this subdivision (a)(1) of a type and in the
3 amounts required by the company; and

4 (E) any other information required by the company.

5 (2) With respect to the individual, conducting or contracting with a third
6 party to conduct:

7 (A) a local and national criminal background check; and

8 (B) a search of the State and national sex offender registry.

9 (3) Obtaining a copy of the individual’s driving record from the
10 Department of Motor Vehicles.

11 (b) A company shall not knowingly allow an individual to act as a driver on
12 the company’s network if such individual:

13 (1) Has received judgments for:

14 (A) more than three moving traffic violations in the preceding three
15 years; or

16 (B) at least one violation involving reckless driving or driving on a
17 suspended or revoked license in the preceding three years.

18 (2) Has been convicted in the preceding seven years of a:

19 (A) felony; or

20 (B) misdemeanor involving:

21 (i) resisting law enforcement;

1 (ii) dishonesty;

2 (iii) injury to person;

3 (iv) operating a vehicle while intoxicated;

4 (v) operating a vehicle in a manner that endangers a person;

5 (vi) operating a vehicle with a suspended or revoked license; or

6 (vii) damage to the property of another person.

7 (3) Is a match in the State or national sex offender registry.

8 (4) Is unable to provide information required under subdivision (a)(2)
9 of this section.

10 (c) A company shall establish and enforce a zero tolerance policy for drug
11 and alcohol use by drivers during any period when a driver is engaged in, or is
12 logged into the company's network but is not engaged in, a prearranged ride.

13 The policy shall include provisions for investigations of alleged policy
14 violations and the suspension of drivers under investigation.

15 (d) A company shall require that a personal vehicle used to provide
16 prearranged rides complies with all applicable laws and regulations concerning
17 vehicle equipment.

18 **§ 753. RECORDS; INSPECTION**

19 The Commissioner of Motor Vehicles, or designee, at all reasonable times,
20 has the right to inspect driver and company records demonstrating compliance
21 with the requirements of this chapter, including the results of background

1 checks, proof that vehicles meet the standards of this chapter, and proof of
2 adequate insurance.

3 **§ 754. SUSPENSION; REVOCATION; PENALTIES**

4 (a) The Commissioner, after notice and opportunity for a hearing, may
5 cancel, suspend, revoke, or refuse to renew any company’s license when he or
6 she is satisfied the company has failed to meet the requirements of this chapter.

7 (b) A company that operates without a license shall be fined not more than
8 \$500.00.

9 **§ 755. SAVINGS CLAUSE**

10 This chapter shall not affect an ordinance, resolution, or bylaw concerning
11 the regulation of transportation network companies, provided the ordinance,
12 resolution or bylaw is consistent with or more stringent than the requirements
13 of this chapter.

14 Sec. 2. EFFECTIVE DATE

15 This act shall take effect on July 1, 2017.

16 and that after passage the title of the bill be amended to read: “An act relating
17 to transportation network companies”

18 (Committee vote: _____)

19 _____

20 Senator _____

21 FOR THE COMMITTEE